

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

WILLIAM A. LOONEY,

Appellant,

v.

PIERCE COUNTY, a political subdivision of
the State of Washington; KEN MADSEN,
Pierce County Treasurer; CLIFFORD M.
BILLINGSLEA,

Respondents.

No. 37022-1-II

UNPUBLISHED OPINION

Quinn-Brintnall, J. — William Looney appeals the dismissal of his quiet title action in which he sought the return of property sold to Clifford Billingslea at a Pierce County tax foreclosure sale on December 5, 2005. On December 2, 2005, three days before the sale, Pierce County rejected Looney's tender of delinquent taxes because he failed to satisfy several preconditions to recovery, including establishing that he owned an interest in the property. On January 19, 2006, Looney paid \$5,000 into the court's registry and filed a lawsuit against Pierce County and its assessor-treasurer, Ken Madsen. Although Madsen had issued a treasurer's deed on December 19, 2005, showing that the property had been sold to Billingslea, Looney did not name Billingslea in the suit. Instead, he asserted that he did not know the purchaser's identity and

named John Doe and Jane Doe.

The trial court granted summary judgment to the County, dismissed other claims as moot, entered a final judgment, and granted Billingslea's motion for attorney fees.

Although Looney asserts that the persons who executed the quitclaim deed he filed on December 2, 2005, were Lorraine Lane's legal heirs with an interest in the property, we agree with the trial court that Looney failed to provide any evidence to support his assertion. Accordingly, summary judgment was appropriate and we affirm.

FACTS

This action began as a quiet title and tort action filed by Looney against the County and Madsen, the County's assessor-treasurer. The property at issue was once owned by Lorraine Lane, who died on October 3, 2003. In late 2005, this property was subject to foreclosure by the County for nonpayment of taxes.

The County was aware that Lorraine Lane had died and tried to contact two persons the Department of Social and Health Services (DSHS) had identified as Lorraine Lane's relatives, Shelly Garrett¹ and Lee Ann Lane, before scheduling the foreclosure sale. The only address DSHS and the County had for Garrett and Lee Ann Lane was the property to be foreclosed and the postal service returned the notices of foreclosure sale to the County as undeliverable.

In December 2005, Looney contacted Garrett, Lee Ann Lane, Shelley R. Cummings, and Sandra Lee Teeter. He alleges that in return for \$1,000 to Lee Ann Lane, Cummings, and Teeter and \$2,000 to Garrett, they signed a quitclaim deed to convey the property to Looney. The deed,

¹ There appears to be some confusion regarding Garrett's first name. The names Sheryl Garrett and Shelley Cummings appear on the quitclaim deed.

which appears to have been notarized by one of Looney's employees, Wayne Wagner, states that the grantors are "the heirs of Lorraine E. Lane, deceased," and that they convey the property and quitclaim to Looney for consideration. Clerk's Papers (CP) at 51. Looney recorded this deed with the County on December 2, 2005.

On December 2, another of Looney's employees, Lindsay Keaton, delivered to the County a copy of the deed and a cashier's check in the amount of unpaid taxes due to the County. The assessor-treasurer's office rejected the payment. Looney called the County attorney's office on December 2. Looney states that an attorney in that office informed him that "the Treasurer would not accept tender from . . . myself nor any of the four daughters of Lorraine E. Lane." CP at 49.

On December 5, 2005, the County sold the property to Billingslea at a public sale. The County recorded the deed on December 19, 2005. On January 19, 2006, Looney filed his action against the County and Madsen to set aside the sale and later amended his complaint to include claims against Billingslea.

When he filed his suit, Looney paid \$5,000 into the court registry, which he claims was an amount sufficient to cover unpaid taxes, interest, penalties, and other costs. Before filing the suit, Looney did not file an administrative claim for damages against the County.

The County and Madsen moved for summary judgment against Looney. The trial court granted the motion.² The trial court reasoned that (1) Looney had failed to tender payment in person or through a proven agent, as required by RCW 84.64.060; (2) Looney had failed to

² Looney also filed a motion for summary judgment against the County and Madsen. Billingslea filed a motion to dismiss a cross-claim of the County and Madsen and moved for judgment on the pleadings against Looney. The trial court heard and ruled on the County's motion, and entered final judgment resolving all matters.

present competent evidence to the court that the grantors of the property to Looney were vested with an ownership interest in the property, as required by RCW 84.64.060 and RCW 84.56.310; and (3) the deed to Billingslea was prima facie evidence that he acquired the property in a lawfully conducted tax foreclosure sale. Billingslea moved for an order requiring that Looney pay Billingslea's attorney fees. The trial court granted the motion.

Looney appeals from entry of final judgment against him and the attorney fee award.

ANALYSIS

We review an order of summary judgment de novo and perform the same inquiry as the trial court. Summary judgment is appropriate only if the pleadings, affidavits, depositions, and admissions on file demonstrate the absence of any genuine issues of material fact and that the moving party is entitled to judgment as a matter of law. *Genie Indus., Inc. v. Market Transp., Ltd.*, 138 Wn. App. 694, 700, 158 P.3d 1217 (2007).

To defeat summary judgment, the nonmoving party must set forth specific facts sufficient to establish the existence of a genuine issue for trial. CR 56(e); *Michak v. Transnation Title Ins. Co.*, 148 Wn.2d 788, 795, 64 P.3d 22 (2003). Specifically,

[a] nonmoving party in a summary judgment may not rely on speculation, argumentative assertions that unresolved factual issues remain, or in having its affidavits considered at face value; for after the moving party submits adequate affidavits, the nonmoving party must set forth specific facts that sufficiently rebut the moving party's contentions and disclose that a genuine issue as to a material fact exists.

Seven Gables Corp. v. MGM/UA Entm't Co., 106 Wn.2d 1, 13, 721 P.2d 1 (1986).

The County issued a treasurer's deed to Billingslea on December 19, 2005, showing that he purchased the property formerly owned by Lorraine Lane. Thus, Looney, as the party

challenging the validity of the deed issued at a foreclosure sale, had the burden to present “competent and controlling” evidence that the deed was invalid. *Larson v. Murphy*, 105 Wash. 36, 39, 177 P. 657 (1919).

Looney contends that the treasurer’s deed to Billingslea is invalid because he tendered an amount to the County assessor-treasurer sufficient to cure the delinquent tax obligation prior to sale as required by RCW 84.64.060 and, therefore, the County lacked authority to sell the property.

RCW 84.64.060 provides:

Any person owning a recorded interest in lands or lots upon which judgment is prayed, as provided in this chapter, may in person or by agent pay the taxes, interest and costs due thereon to the county treasurer of the county in which the same are situated, at any time before the day of the sale; and for the amount so paid he or she shall have a lien on the property liable for taxes, interest and costs for which judgment is prayed; and the person or authority who shall collect or receive the same shall give a receipt for such payment, or issue to such person a certificate showing such payment. If paying by agent, the agent shall provide notarized documentation of the agency relationship.

(Emphasis added.) It is undisputed that, on December 2, 2005, Looney sent one of his employees, Keaton, to the County with a cashier’s check and a copy of the quitclaim deed to pay the back taxes. The County asserts that it rejected payment because Keaton, Looney’s employee, did not have the required notarized documentation of an agency relationship. Looney objects that this claimed documentation of agency deficiency is a pretext and states that, at the time he attempted to tender payment, the County did not present this as a reason for rejecting payment.

According to Looney, the County attorney’s office stated that it disputed Looney’s ownership interest in the property and stated that it would not accept payment from him in any form, whether in person or by agent, or from the women who signed the quitclaim representing

that they were Lorraine Lane's heirs. The County did not expressly deny Looney's characterization of the bases underlying the County's rejection and we observe that if proof of the agency relationship between Keaton and Looney were the only impediment to accepting Looney's tender of the delinquent tax amount, that deficiency could have been easily cured before the scheduled sale.

The County argues that summary judgment was appropriate because it is clear that Looney could not prevail. It states several arguments to support this claim. First, the County asserts that Looney's failure to comply with the notice of claims statute, RCW 36.45.010, requires dismissal of his claim. Second, it argues that Looney did not comply with the requirements of RCW 84.68.080 and .090 that he reimburse Billingslea for all taxes, penalties, interest, and costs he paid at the tax sale or allege that they had been fully paid or tendered and payment refused before filing the action.

More important, the County points to several deficiencies in Looney's tender, arguing that (1) the person attempting to pay the delinquent tax lacked the necessary notarized documentation of agency authorizing payment; and (2) because nothing established the identity of Lorraine Lane's heirs or devisees and their interest, if any, in the property, even under the recorded quitclaim deed, Looney lacked sufficient interest in the property for the County to accept his tender of delinquent taxes. The trial court agreed with the County's arguments and granted it summary judgment on these bases. We review the record and address each in turn.

Failure to File Notice of Claim

The County asserts that Looney's failure to comply with the notice of claims statute, RCW 36.45.010, required dismissal of his claim against the County. We disagree. Looney

primarily sought an equitable remedy from the County and Billingslea—rescission of the tax sale and an order quieting title in Looney. *Stieneke v. Russi*, 145 Wn. App. 544, 570, 190 P.3d 60 (2008) (rescission is an equitable remedy), *review denied*, 165 Wn.2d 1026 (2009). The notice of claims statute, RCW 36.45.010, does not apply to actions seeking the return of specific property. *Selland v. Douglas County*, 4 Wn. App. 387, 481 P.2d 573 (1971) (reasoning that the notice of claims statute did not apply to actions seeking return of specific property). Accordingly, Looney’s failure to comply with the notice of claims statute does not support summary judgment for the County.

Failure to Tender Payment Prior to Filing an Action to Recover Land Sold

The County next argues that summary judgment was proper because Looney did not comply with the requirements of RCW 84.68.080 and .090 and reimburse Billingslea for all taxes, penalties, interest, and costs he paid at the tax sale or allege that they had been fully paid or tendered and payment refused before filing the action. Again, we disagree.

The statutes the County relies on provide:

Hereafter no action or proceeding shall be commenced or instituted in any court of this state for the recovery of any property sold for taxes, unless the person or corporation desiring to commence or institute such action or proceeding shall first pay, or cause to be paid, or shall tender to the officer entitled under the law to receive the same, all taxes, penalties, interest and costs justly due and unpaid from such person or corporation on the property sought to be recovered.

RCW 84.68.080.

In all actions for the recovery of lands or other property sold for taxes, the complainant must state and set forth specially in the complaint the tax that is justly due, with penalties, interest and costs, that the taxes for that and previous years have been paid; and *when the action is against the person or corporation in possession thereof that all taxes*, penalties, interest and costs paid by the purchaser at tax-sale, the purchaser’s assignees or grantees *have been fully paid or tendered*, and payment refused.

RCW 84.68.090 (emphasis added).

Here, it is undisputed that Looney did not pay or tender any money directly to Billingslea. Instead, he paid \$5,000 into the registry of the court. Early cases addressing whether such tender is sufficient reached different results. The first line of cases hold that tender to a purchaser is an absolute prerequisite to recover land. *Wilfong v. Ontario Land Co.*, 171 F. 51, 53 (1909) (citing *Merritt v. Corey*, 22 Wash. 444, 446, 61 P. 171 (1900)), *aff'd*, 223 U.S. 543 (1912). These cases state that payment after an action is commenced is insufficient. *Wilfong*, 171 F. at 54 (stating “payment or tender is an indispensable condition to the right of the owner to maintain a bill in equity to cancel the tax sale certificates or remove the cloud cast by them upon his title”); *Merritt*, 22 Wash. at 447 (“Nor can the failure to so pay or tender be cured by tender and amendment at the trial.”).

But under a second more recent line of cases, tender is allowed any time before final judgment. *Empey v. Yost*, 182 Wash. 17, 21-22, 44 P.2d 774 (1935) (allowing successful plaintiff to recover property conditioned upon payment of full amount of unpaid taxes in situation where plaintiff had tendered only partial payment of unpaid taxes before commencing suit). *See also Coughlin v. Holmes*, 53 Wash. 692, 694, 102 P. 772 (1909) (stating “we have frequently held that pleadings may be amended at the trial to conform to the evidence introduced. . . . The record before us shows that a tender was made, and the amount thereof paid into court.”). Assuming, without deciding, that Looney did not learn the purchaser’s identity until after he filed the action to rescind the sale, payment into the court registry would have been the best way to comply with the statute’s tender requirement.

We hold that because Billingslea was a necessary party to Looney's action to set aside the tax sale, CR 19(a),³ Looney satisfied the requirements of RCW 84.68.090 by tendering payment to the court registry. Granting summary judgment because Looney paid the requisite amount into the registry of the court rather than to the purchaser whose identity was unknown at the time of filing is inappropriate.

We now address the issues regarding Looney's tender: (1) the person attempting to pay the delinquent tax lacked the necessary notarized documentation of agency relationship to authorize payment; and (2) because nothing established the identity of Lorraine Lane's heirs or devisees and their interest, if any, in the property, even under the recorded quitclaim deed, Looney failed to demonstrate sufficient interest in the property for the County to accept his tender of delinquent taxes.

The trial court concluded that Looney had failed to present competent evidence to the court that the grantors of the deed purporting to quitclaim the property to Looney were vested with an ownership interest in the property, as required by RCW 84.64.060. We agree.

³ CR 19(a) states:

A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded among those already parties, or (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (A) as a practical matter impair or impede his ability to protect that interest or (B) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party. If he should join as a plaintiff but refuses to do so, he may be made a defendant, or, in a proper case, an involuntary plaintiff. If the joined party objects to venue and his joinder would render the venue of the action improper, he shall be dismissed from the action.

Under RCW 84.64.060, any party “owning a recorded interest” in a property may pay the taxes before a scheduled tax sale. Here, Looney asserts that by recording the quitclaim deed, he owned a recorded interest and was entitled to pay the taxes before the scheduled sale. We agree with Looney that if she died intestate, title to the property vested in Lorraine Lane’s heirs on her death, RCW 11.04.250.⁴ *See generally In re Schmidt’s Estate*, 134 Wash. 525, 528, 236 P. 274 (1925). But at the time he tendered the delinquent tax payment, Looney produced no evidence that these grantors were heirs with any interest in the property to convey. And before the trial court, Looney presented only his unsupported self-serving declaration that the women who signed the quitclaim deed are Lorraine Lane’s heirs.

[T]hese heirs were not strangers to the property. In fact, Pierce County attempted to find at least two of the heirs to serve them regarding the foreclosure. Pierce County was made aware of these heirs by the Department of Social and Health Services (CP 96-97). The daughters of Ms. Lane were not strangers to the

⁴ RCW 11.04.250 provides:

When a person dies seized of lands, tenements or hereditaments, or any right thereto or entitled to any interest therein in fee or for the life of another, his title shall vest immediately in his heirs or devisees, subject to his debts, family allowance, expenses of administration and any other charges for which such real estate is liable under existing laws. No administration of the estate of such decedent, and no decree of distribution or other finding or order of any court shall be necessary in any case to vest such title in the heirs or devisees, but the same shall vest in the heirs or devisees instantly upon the death of such decedent: PROVIDED, That no person shall be deemed a devisee until the will has been probated. The title and right to possession of such lands, tenements, or hereditaments so vested in such heirs or devisees, together with the rents, issues and profits thereof, shall be good and valid against all persons claiming adversely to the claims of any such heirs, or devisees, excepting only the personal representative when appointed, and persons lawfully claiming under such personal representative; and any one or more of such heirs or devisees, or their grantees, jointly or severally, may sue for and recover their respective shares or interests in any such lands, tenements, or hereditaments and the rents, issues and profits thereof, whether letters testamentary or of administration be granted or not, from any person except the personal representative and those lawfully claiming under such personal representative.

property.

Br. of Appellant at 9.

However, the declaration of Sandra Moore, County tax foreclosure coordinator, dated December 4, 2006, on which Looney relies, does not support a finding that the County knew Garrett and Lee Ann Lane were Lorraine Lane's heirs and eligible to inherit under Washington intestacy laws. RCW 11.04.250. Moore's declaration recites that the County did not know the identities or addresses of any heirs of Lorraine Lane, and that DSHS, which also had a lien on the property, told the County "that Shelly Garrett and Lee Anne [sic] Lane were related to Lorraine Lane and might know someone who would claim an interest in the property, but they had no address for them except the property." CP at 96. Moore's declaration does not state definitively that these two individuals were known to be heirs, only that they were believed to be "related."

Looney presented no evidence that the women who signed the quitclaim deed were children or sole heirs of Lorraine Lane. In other words, the County's refusal to accept Looney's tender was grounded in the fact that there was no evidence or documentation to support Looney's assertion that the parties to the quitclaim were Lorraine Lane's lawful heirs and vested with rights and interests in the property⁵ sufficient to convey those rights to Looney by

⁵ We agree with Looney that title vests on the date of death of the decedent in the heirs or devisees. RCW 11.04.250. Nevertheless, Looney did not present any evidence that the persons who signed the quitclaim were Lorraine Lane's heirs.

quitclaim.⁶ *Seven Gables Corp.*, 106 Wn.2d at 13; *Vacova Co. v. Farrell*, 62 Wn. App. 386, 395, 814 P.2d 255 (1991) (“Unsupported conclusory allegations” and “argumentative assertions are not sufficient to defeat summary judgment.”).

When he tendered payment, Looney presented no evidence of the grantors’ authority to execute a quitclaim deed over property belonging to the estate of Lorraine Lane. Further, although the quitclaim deed was acknowledged, RCW 64.04.020, it was not executed under penalty of perjury. ““An acknowledgment is a verification of the fact of execution, but [it] is not a verification of the contents of the instrument executed.”” Black’s Law Dictionary 24 (8th ed. 2004) (quoting 1A C.J.S. *Acknowledgments* § 2 (1985)). The grantors did not appear in the chain of title for the property and Looney had no notarized documentation authorizing him to pay the taxes on behalf of Lorraine Lane’s estate.⁷ RCW 84.64.060 (“If paying by agent, the agent shall

⁶ RCW 84.64.060 allows “[a]ny person owning a recorded interest in lands or lots” to pay the taxes, interest, and costs, cure a tax delinquency, and avoid foreclosure sale. Here, Looney asserts that the quitclaim deed he recorded gave him the necessary recorded interest. But the grantors of the quitclaim deed have no recorded interest in the property and there is no notarized documentation of any relationship between any owner of record, the estate of Lorraine Lane, and Looney.

⁷ Because Looney failed to present evidence to support ownership of a recorded interest, the only other way he could prevent the sale was by presenting a document from the property owner granting him the authority to pay the tax due as his or her agent. RCW 84.64.060 (“If paying by agent, the agent shall provide notarized documentation of the agency relationship.”). Looney did not present such a document.

The County further argues that Looney failed to satisfy RCW 84.64.060’s requirement for paying taxes by agent because he tried to have an employee pay the tax on December 2, 2005, instead of appearing in person. Looney responds that at the time he attempted to tender payment, the County did not present this as a reason for rejecting payment. He adds that the County attorney’s office disputed Looney’s ownership interest in the property and stated it would not accept payment from him in any form, whether in person or by agent, or from Lorraine Lane’s asserted heirs. Although we affirm the trial court’s grant of summary judgment to the County on different grounds, we briefly discuss this argument.

Regardless whether Looney’s agent arrived at the County with proof of agency—a disputed fact—the County attorney’s apparently undisputed statement that the County would not

provide notarized documentation of the agency relationship.”). Thus, Looney did not meet the requirements of RCW 84.64.060 and his tender was properly refused.⁸

We hold that, following the issuance of a certificate of delinquency, a party seeking to tender payment of delinquent taxes and redeem property to avoid a sale must show proof of ownership of a recorded interest or notarized documentation that they are an authorized agent of one holding such an interest. A quitclaim deed issued by persons not appearing in the chain of title to the property is insufficient to establish such an interest as a matter of law. RCW 64.04.050; *see also Crafts v. Pitts*, 161 Wn.2d 16, 21 n.2, 162 P.2d 382 (2007) (stating that a grantor in a quitclaim deed “makes no assurances to the grantee that he actually has good title to, or even any interest in, the property”). Here, Looney not only failed to demonstrate sufficient ownership interest or agency at the time of tender but also presented no evidence to the trial court showing that the named grantors in the quitclaim he recorded held such an interest sufficient to

take any payment from Looney or Lorraine Lane’s alleged heirs (the County’s brief does not mention or contradict this exchange) demonstrates that Looney’s compliance with this rule was impossible. *See generally Label v. Cleasby*, 13 Wn. App. 789, 792, 537 P.2d 859 (1975) (in a different circumstance, recognizing that relief may be granted, “where the action of a public official has frustrated payment of the tax”), *review denied*, 86 Wn.2d 1013 (1976). Moreover, Looney attempted to account for the unpaid taxes by submitting \$5,000 into the court registry, which he claims was an amount sufficient to cover unpaid taxes, interest, penalties, and other costs. Consequently, although Looney’s failure to provide notarized proof of an agency relationship between him and his employee is not fatal, his failure to provide proof of an agency relationship between the owner of record and him is.

⁸ We are mindful of the potential injustice an arbitrary rejection of a delinquent tax payment by a rightful owner may cause. For example, a soldier returning from deployment overseas to find her mother had died and that a tax foreclosure sale of the family home was scheduled the next day could face a situation similar to Looney’s. In contrast to the issue presented here, however, the soldier could present an affidavit, declaration, or similar document demonstrating that she is the rightful owner of the property through the laws of intestacy, being the sole heir of the prior owner who was the affiant’s parent as shown by certified copy of the soldier’s birth certificate, attached as an exhibit to an affidavit.

create an issue of material fact. CR 56(c), (e); *Vacova*, 62 Wn. App. at 395.

Accordingly, the trial court's award of summary judgment was proper.

Attorney Fees

Relying on RCW 4.84.185⁹ allowing an award of attorney fees for filing a frivolous action and the so-called "ABC rule," the trial court ordered Looney to pay Billingslea's attorney fees. The general rule in Washington is that a trial court should not award attorney fees unless permitted by contract, statute, or in specific equitable circumstances. One equitable exception is the "ABC rule," which essentially allows an award of fees as consequential damages. "When the natural and proximate consequences of a wrongful act of A involve B in litigation with others, B may as a general rule recover damages from A for reasonable expenses incurred in that litigation, including attorney's fees." *Dauphin v. Smith*, 42 Wn. App. 491, 494, 713 P.2d 116 (1986). This exception is narrow and only permitted when a third party gets involved in litigation through no fault of their own. *Jain v. J.P. Morgan Sec., Inc.*, 142 Wn. App. 574, 587, 177 P.3d 117, *review denied*, 164 Wn.2d 1022 (2008), *cert. denied*, 129 S. Ct. 1584 (2009).

Here, the trial court found that "Mr. Looney's actions of attempting to redeem the

⁹ RCW 4.84.185 states:

In any civil action, the court having jurisdiction may, upon written findings by the judge that the action, counterclaim, cross-claim, third party claim, or defense was frivolous and advanced without reasonable cause, require the nonprevailing party to pay the prevailing party the reasonable expenses, including fees of attorneys, incurred in opposing such action, counterclaim, cross-claim, third party claim, or defense. This determination shall be made upon motion by the prevailing party after a voluntary or involuntary order of dismissal, order on summary judgment, final judgment after trial, or other final order terminating the action as to the prevailing party. The judge shall consider all evidence presented at the time of the motion to determine whether the position of the nonprevailing party was frivolous and advanced without reasonable cause. In no event may such motion be filed more than thirty days after entry of the order.

Property from sale without following the proper legal procedures for doing so involved Mr. Billingslea in litigation with a third party, Pierce County.” CP at 141. It also found that Looney failed to present any “competent evidence” “that the grantors of the quitclaim deed . . . was [sic] vested with an ownership interest in the property” to meet the requirements of RCW 84.64.060 and that the County conducted a legally valid tax foreclosure sale. It awarded fees to Billingslea because Looney’s “claims were frivolous and advanced without reasonable cause.” CP at 141.

We review a trial court’s award of fees in a frivolous lawsuit for an abuse of discretion. RCW 4.84.185; *Koch v. Mut. of Enumclaw Ins. Co.*, 108 Wn. App. 500, 510, 31 P.3d 698 (2001), *review denied*, 145 Wn.2d 1028 (2002).

Under RCW 4.84.185, a court cannot pick and choose among those aspects of an action that are frivolous and those that are not. The action must be viewed in its entirety and only if it is frivolous as a whole will an award of fees be appropriate. An action is frivolous if it “cannot be supported by any rational argument on the law or facts.”

Jeckle v. Crotty, 120 Wn. App. 374, 387, 85 P.3d 931 (citations omitted), *review denied*, 152 Wn.2d 1029 (2004).

Although we hold that Looney failed to present sufficient evidence to survive the County’s summary judgment motion, we do not hold that his claim could not be supported by any rational argument on the law. As shown above, the County’s arguments that Looney was required to comply with the notice of claims statute and reimburse the purchaser of the property personally before initiating an action to redeem the property lack merit. Nevertheless, because Looney failed to present *any* evidence that the quitclaim conveyed sufficient interest in property to satisfy RCW 84.64.060, we hold that the trial court did not abuse its discretion in holding that Looney’s claim was frivolous and ordering him to pay Billingslea’s attorney fees and costs.

Because we hold that the trial court's award of fees was proper under RCW 4.84.185, we do not address application of the "ABC rule."¹⁰

The County, Madsen, and Billingslea seek attorney fees for this appeal. We agree with the trial court that because Looney presented no specific facts to defeat an award of summary judgment, only submitting a self-serving declaration and a quitclaim deed, no rational argument exists that would entitle Looney to prevail on his claim and an award of attorney fees for this appeal is appropriate upon compliance with RAP 18.1.

Affirmed.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

QUINN-BRINTNALL, J.

We concur:

BRIDGEWATER, P.J.

ARMSTRONG, J.

¹⁰ De novo review is the proper standard for review of an application of the "ABC rule." *Tradewell Group, Inc. v. Mavis*, 71 Wn. App. 120, 126-27, 857 P.2d 1053 (1993).